

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

OBESITY RESEARCH	§	
INSTITUTE, LLC, a	§	
California limited	§	
liability company,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
	§	
	§	
FIBER RESEARCH	§	Case Number
INTERNATIONAL, LLC, a	§	3:15-cv-00595-BAS-MDD
Nevada limited liability	§	
company and DOES 1-10,	§	
inclusive,	§	
	§	
Defendants.	§	
	§	
	§	
	§	
	§	
FIBER RESEARCH	§	
INTERNATIONAL, LLC,	§	
	§	
Counter-claimant,	§	
	§	
vs.	§	
	§	
	§	
Obesity Research	§	
INSTITUTE, LLC,	§	
	§	
Counter-defendant.	§	

ORAL AND VIDEOTAPED DEPOSITION OF

GILBERT R. KAATS, Ph.D.

FEBRUARY 19, 2016

1 ORAL AND VIDEOTAPED DEPOSITION OF GILBERT R.
2 KAATS, PhD, produced as a witness at the instance of
3 the PLAINTIFF, and duly sworn, was taken in the
4 above-styled and numbered cause on
5 FEBRUARY 19, 2016, from 10:28 a.m. to 7:17 p.m.,
6 before Melody Reneé Campbell, CSR in and for the
7 State of Texas, reported by method of machine
8 shorthand, at the Law Offices of Gordon & Rees,
9 816 Congress Avenue, Suite 1510, Austin, Texas,
10 pursuant to Notice and Subpoena and the Federal
11 Rules of Civil Procedure.

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A P P E A R A N C E S

FOR THE PLAINTIFF:

Mr. Sean D. Flaherty, Esq.
Gordon Rees Scully Mansukhani, L.L.P.
101 West Broadway, Suite 2000
San Diego, California 92101
619.696.6700
619.696.7124 (Fax)
SFlaherty@gordonrees.com

FOR THE DEFENDANTS:

Mr. Jack Fitzgerald, Esq.
The Law Office of Jack Fitzgerald
3636 Fourth Avenue, Suite 202
San Diego, California 902103
619.692.3840
619.362.9555 (Fax)
Jack@jackfitzgeraldlaw.com

ALSO PRESENT:

Mr. Tom Krause (Videographer)

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1 THE VIDEOGRAPHER: The time is
2 10:25 a.m. on February 19th, 2016. This is DVD
3 Number 1 of the video deposition Dr. Gilbert Kaats.
4 Will the court reporter please swear in the witness.

5 GILBERT KAATS,
6 having been first duly sworn, testified as follows:

7 EXAMINATION

8 BY MR. FLAHERTY:

9 Q. Good morning, Dr. Kaats. My name is Sean
10 Flaherty. I am of the law firm Gordon & Reese and I
11 represent Obesity Research Institute in this matter.

12 A. Uh-huh.

13 MR. FITZGERALD: And for the record,
14 let me say, Jack Fitzgerald on behalf of Dr. Gilbert
15 Kaats and Fiber Research.

16 Q. (BY MR. FLAHERTY) Dr. Kaats, for the
17 record, could you spell your first and last name.

18 A. First name is Gilbert, G-i-l-b-e-r-t.
19 Last name is Kaats, K-a-a-t-s.

20 Q. Dr. Kaats, have you had your deposition
21 taken before?

22 A. A definition or --

23 Q. Have you had your deposition taken before?

24 A. No.

25 Q. No. And that brings up a good point. We

1 Q. Okay.

2 MR. FLAHERTY: About when did we
3 start? I was thinking about taking a break but --

4 THE VIDEOGRAPHER: The time is
5 2:57 p.m. We're going off the record.

6 (Recess.)

7 THE VIDEOGRAPHER: The time is
8 3:21 p.m. We're back on the record.

9 MR. FITZGERALD: Are you still
10 questioning on Exhibit 3?

11 MR. FLAHERTY: In just a moment,
12 yeah. I have one more question about that and then
13 we'll move on from it.

14 Q. (BY MR. FLAHERTY) Dr. Kaats, do you have
15 a preference how this case concludes?

16 A. Do I have a preference as to how this case
17 concludes. Yeah, sure. If -- number one, my
18 preference is that however it concludes, I want to
19 publish that document now, because I'm in an awkward
20 position of trying to explain it right now.

21 I have no professional investment in
22 the document, per se. It's the answers. And I want
23 you to -- in you could give me the answers, how do I
24 answer these questions over here? How do I explain
25 to people, why would they stop the publication, what

1 answer would you give me? Can ORI tell me that?

2 What do I say to that?

3 Q. I hope you get answers to your questions.

4 I can't give you answers in this deposition.

5 But to the extent that that is your
6 answer to my request as to whether you have a
7 preference on how this case concludes, I recognize
8 you'd like to see the study published. That's your
9 testimony. Correct?

10 A. That's right. And I'd like to see it
11 published so it can stop what I consider to be a
12 significant concern about my profession, as well as
13 Dr. Preuss, too, and Dr. Bagchi.

14 Q. Do you have a preference as to whether or
15 not ORI or -- well, when I say ORI, I mean Obesity
16 Research Institute, or FRI, meaning Fiber Research
17 International, win or lose?

18 A. Yeah. Let me speak in PhD terms. I'm
19 pissed that you jacked me around on this thing over
20 here, yeah.

21 I'd like to somehow, Mr. ORI, have
22 you pay for that, because I think you've damaged
23 your industry, as well as you damaged our people.
24 And I -- somehow pay for that, even though it
25 doesn't cost me anything.

1 And I'm annoyed with all of the
2 professional time I've had to dedicate to this thing
3 that I've never paid -- paid a dime for. So that's
4 not going to be redressed to me no matter who wins
5 or who loses.

6 But I'd like a public statement made.
7 You can't go out and recklessly make statements
8 about research and put researchers on the damn spot,
9 and you can't go to journals and threaten to sue
10 journals with what I consider to be, you know,
11 inadequate information.

12 So those kinds of things get me to
13 the point to say, you guys ought to pay something
14 for that. Yeah, you ought to pay something for
15 that.

16 Q. So regardless of who wins, as long as ORI
17 loses, you're good with it?

18 MR. FITZGERALD: Objection; vague.

19 A. If the judge comes out and says, Kaats,
20 you're wrong, blah, blah, blah, and I've got a good
21 explanation for this thing, well, okay, I got it.
22 I'll take the Court's decision on that if that's
23 where it ultimately goes, sure. And I'll bury it
24 and I'll live with it.

25 Q. (BY MR. FLAHERTY) Okay. Tell me about